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August 13, 2018

Ex Parte

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Rural Call Completion, WC Docket No. 13-39

Dear Ms. Dortch:

On August 9, 2018, Curtis Groves, Fred Moacdieh, Timothy Vogel, and I of Verizon met with Daniel Kahn, Melissa Kinkel (by phone), Alex Espinoza, and Zach Ross of the Wireline Competition Bureau about the Commission's implementation of the Improving Rural Call Quality and Reliability Act of 2017¹ ("RCC Act").² Consistent with our comments,³ we reiterated our support for the Commission's continued efforts to address rural call completion issues and to implement the RCC Act. We urged the Commission to limit application of the RCC Act to rural areas, to adopt flexible service quality standards for intermediate providers, and to establish compliance deadlines that implement the RCC Act efficiently and effectively.

¹ Improving Rural Call Quality and Reliability Act of 2017, Pub. L. No. 115-129 (2018).

² See *Rural Call Completion*, Second Report and Order and Third Further Notice of Proposed Rulemaking, WC Docket 13-39, FCC 18-45 (Apr. 17, 2018) ("*Second R&O*" or "*Third FNPRM*").

³ See, e.g., Comments of Verizon Comments (June 4, 2018); Reply Comments of Verizon (June 19, 2018).

I. The Text of the RCC Act Supports Application Only in Rural Areas

We explained that the Commission should implement Section 262(c)(2)(B)’s mandate through rules that apply only in rural areas. The Commission has identified call-completion issues in rural areas, not other areas. Consistent with Congress’s intent to address rural call completion problems, the Commission should apply its implementing rules in rural areas to, in the words of Section 262(c)(2)(B), “prevent *unjust or unreasonable discrimination* among areas of the United States in the delivery of covered voice communications.”⁴ In non-rural areas, the implementing rules would be unnecessary to prevent unjust or unreasonable discrimination.

The Commission has interpreted similar language to that of the RCC Act as its authority to develop rules focused only on rural areas. In the April 2018 *Second R&O*, the Commission relied on the Bureau’s previous interpretations of Sections 201 and 202 to develop the new covered provider monitoring rules for rural areas.⁵ Section 201(b) prohibits unjust and unreasonable practices,⁶ and Section 202(a) prohibits unjust or unreasonable discrimination in the provision of service “to any particular person, class of persons, or *locality*. . . [.]”⁷ In the *Second R&O* the Commission affirmed that “a carrier that knows or should know that it is providing degraded service to *certain areas*” and fails to fix the problem violates Section 201.⁸ The Commission also affirmed that practices that degrade service to rural areas can violate Section 202, emphasizing that “provid[ing] discriminatory service with respect to calls placed to rural areas” may violate Section 202.⁹

Consistent with standard principles of statutory construction, the Commission should interpret the nearly identical language in Section 262(c)(2)(B) and the RCC Act’s preamble prohibiting “unjust and unreasonable discrimination among areas of the United States” the same way as it interpreted Sections 201 and 202 in this context and adopt rules that apply only in rural areas.¹⁰ Expanding the scope of Section 262(c)(2)(B) to apply to non-rural areas would be inconsistent with the Commission’s affirmation just four months ago that Sections 201 and 202 can be narrowly applied only to rural areas. Also, doing so would create a web of regulatory confusion between the covered provider and intermediate provider obligations, a result the Commission should seek to avoid.

⁴ 47 U.S.C. § 262(c)(2)(B) (emphasis added).

⁵ *Second R&O* ¶ 24.

⁶ 47 U.S.C. § 201(b) (emphasis added).

⁷ *Id.* § 202(a) (emphasis added).

⁸ *Second R&O* ¶ 24.

⁹ *Id.*

¹⁰ “A standard principle of statutory construction provides that identical words and phrases within the same statute should normally be given the same meaning.” *Powerex Corp. v. Reliant Energy Services, Inc.*, 551 U.S. 224, 232 (2007).

II. Applying the RCC Act to Non-Rural Areas Creates a Significant Burden for Consumers, Providers, and the Commission

We explained that applying the RCC Act registration and monitoring requirements nationwide would place a significant burden on all providers and would undercut the ultimate goal of ensuring rural call completion. The Commission should not require non-rural providers to register and should not impose nationwide monitoring requirements on intermediate providers.¹¹

The burdens associated with requiring non-rural intermediate providers to register would far outweigh any potential benefits. First, there is no evidence in the record that there are issues with non-rural call completion.¹² Second, including intermediate providers in non-rural areas in a nationwide registry would not help the public, Commission, or covered providers identify intermediate providers that may be responsible for rural call completion issues. Third, the Commission should not create a bifurcated registry where all intermediate providers are required to register, but only those serving rural areas are subject to the RCC Act service quality standards. Such a registry would be confusing, unhelpful, and, more importantly, contrary to the RCC Act. Section 262(a) requires that intermediate providers both “(1) register with the Commission; and (2) comply with the service quality standards[.]”¹³

We explained that imposing nationwide monitoring requirements on intermediate providers would also create significant burdens, increasing the number of destination carriers that must be monitored from over 1,300 rural operating company numbers (OCNs), to more than 4,700 rural and non-rural OCNs. As we explained in Verizon’s RCC Report, it was more efficient to analyze rural call completion at the level of an individual end office, identified by a unique Common Language Location Identifier (CLLI) code, instead of an entire OCN.¹⁴ Verizon also observed that 47% of the rural OCNs had two or more CLLIs, and 17% of the rural OCNs had five or more CLLIs.¹⁵ The additional destination carriers coupled with the multiplier effect of monitoring at the CLLI level results in a dramatic increase in the number of destinations to be monitored.

Nationwide monitoring involves analyzing significantly more traffic. For example, in April 2018 Verizon terminated roughly 58 million minutes of use to rural incumbent local exchange carriers through intermediate providers. In that same month, Verizon terminated many more times that amount to non-rural destinations through intermediate providers. Including non-rural destinations in the RCC Act requirements increases the volume of data to be collected,

¹¹ The Commission made clear in the *Second R&O* that the covered provider monitoring requirements apply only to *rural* areas. See, e.g., *Second R&O* ¶ 15.

¹² Cf. *Second R&O* ¶ 14

¹³ 47 U.S.C. § 262(a)(1)-(2) (emphasis added).

¹⁴ See Verizon Report, “Rural Call Completion: Investigations, Lessons Learned, and Other Information Regarding Avoidance, Investigation, and Resolution of Rural Call Completion Problems,” WC Docket No. 13-39, at 18 (June 4, 2018) (“Verizon RCC Report”)

¹⁵ *Id.*

processed, stored, and potentially investigated. Not only is this contrary to the intention of the RCC Act, but including the additional data undercuts the goal of identifying and solving rural call completion issues. For example, the additional data could generate false-positive events where the activity triggering the investigation is ultimately linked to circumstances outside of Verizon's control, like end user calling patterns, network signaling practices, fiber cuts, and equipment outages.

Finally, implementing monitoring requirements on a nationwide basis will result in increased investigations for non-rural areas, diverting attention and resources away from rural call completion. The Verizon RCC Report includes a table showing a normal distribution of call answer rates across rural destinations and Verizon non-rural end offices.¹⁶ Given the high rate of false positives we observed in our investigations, significant time could be needlessly spent investigating issues in non-rural OCNs before investigating issues in rural OCNs.¹⁷ This would unnecessarily divert resources from the area of concern: rural America.

III. The Commission Should Modify the Current Deadlines in Order to Implement the RCC Act and Commission Rules Efficiently

We urged the Commission to establish the full set of rural call completion rules before its compliance deadlines go into effect, and we suggested the Commission postpone the October 17, 2018 deadline for the covered provider monitoring requirement.

As many commenters have noted, the RCC Act and the *Second R&O* established a series of deadlines, including: the August 2018 deadline for the Commission to establish the intermediate provider registry;¹⁸ the October 17, 2018 deadline for covered providers to begin monitoring intermediate providers (which is before there is a definitive list of rural destinations);¹⁹ the November 15, 2018 deadline for the Bureau to publish the list of rural and non-rural LEC OCNs;²⁰ and the February 26, 2019 deadline for the Commission to establish service quality standards for intermediate providers.²¹ In addition, the Commission has not set a deadline for covered providers to post contact information on their website and ensure that staff

¹⁶ *Id.* at 2.

¹⁷ Verizon's use of metrics resulted in false-positive indicators more than 70% of the time. *Id.* at 18.

¹⁸ Section 262(c)(1)(A) ("Not later than 180 days after the enactment of this section, the Commission shall promulgate rules to establish a registry to record registrations under subsection (a)(1)."). The RCC Act was passed on February 26, 2018.

¹⁹ See *Second R&O* ¶ 50 ("The monitoring rule will therefore go into effect six months from the date that this Order is released by the Commission, or 30 days after publication of this Order in the Federal Register, whichever is later.").

²⁰ See *Second R&O* ¶ 30 n.103 (citing 47 C.F.R. § 64.2101).

²¹ Section 262(c)(1)(B) ("Not later than 1 year after the date of enactment of this section, the Commission shall promulgate rules to establish service quality standards for the transmission of covered voice communications by intermediate providers.")

has the technical capability to address rural call completion concerns,²² or the deadline for NECA to create a public list of covered provider contact information.²³

These deadlines are inextricably tied to substantive rural call completion issues that remain undecided, including:

- The scope of application of the RCC Act (as discussed above).
- The definition of intermediate provider.
- The intermediate provider registration requirements.
- Logistical issues relating to the registry, including establishing the registration website and approval by the Office of Management and Budget (“OMB”).²⁴
- After creating the online registry, the deadline for intermediate providers to register.
- Subsequent to intermediate provider registration, the deadline for covered providers to “use” only registered intermediate providers.
- The definition of “use” under Section 262(b).
- The intermediate provider service quality standards.²⁵

Instead of rolling out piecemeal regulatory mandates which may sow confusion for both intermediate and covered providers, the Commission should first decide these outstanding issues and then implement a reasonable timeline for compliance. Doing so will give the Commission time to decide these outstanding issues and establish the website for intermediate providers to register. The remaining deadlines would only go into effect *after* intermediate providers are actually able to register. For example, after all intermediate providers register, covered providers will be required to use registered intermediate providers. Then, the FCC would establish the service quality standards.²⁶ And only after that, the monitoring requirement for covered providers and the self-monitoring requirement for intermediate providers should go into effect *at the same time*.²⁷

²² *Second R&O* ¶ 37.

²³ *See id.* ¶ 39.

²⁴ Section 262(d) requires the Commission to create a registration website, which will likely require OMB approval. *See* 5 C.F.R. § 1320.5.

²⁵ We reiterated that the Commission should adopt flexible service quality standards for intermediate providers. Doing so will not only facilitate smooth implementation of the RCC Act, but also will allow providers that serve as both covered and intermediate providers to set up consistent monitoring systems in a more efficient, effective manner.

²⁶ As mentioned in our prior comments, the Commission should decline to adopt the ATIS best practices proposed in the *Third FNPRM* as the service quality standards for intermediate providers. *See* Verizon Comments at 8-10; Verizon Reply Comments at 2-5. Instead, the Commission should model the service quality standards after the flexible approach employed for covered providers. *See Second R&O* ¶ 34

²⁷ As mentioned in Verizon’s comments, the Commission should allow affiliated covered and intermediate providers to implement a consolidated monitoring program. Doing so will allow affiliated entities to combine resources and engage in monitoring more efficiently. *See* Verizon Comments at 12-13.

Marlene H. Dortch
August 13, 2018
Page 6

Taking these actions will ensure smooth implementation of the new rural call completion requirements while furthering the goal of ensuring that calls are completed to rural areas.

Very truly yours,

/s/

Michele G. Cober

cc: Daniel Kahn
Zach Ross

Alex Espinoza
Melissa Kinkel

Jay Schwarz